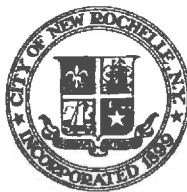


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August 19, 2015

Honorable Judith C. McCarthy  
United States Magistrate Judge  
The Hon. Charles L. Brieant Jr.  
Federal Building and United States Courthouse  
300 Quarropas Street  
White Plains, New York 10601-4150

Re: Llewellyn Angelo Williams v. City of New Rochelle, et al.  
13 CV 3315 (NSR)(JCM)

Dear Judge McCarthy:

This office is representing the Defendants in the above-referenced matter. I am submitting this letter in response to the August 13, 2015 letter submitted by Plaintiff's counsel, Russell Smith, in which he seeks leave of the Court to file a Supplemental Sixth Amended Complaint in this matter.

Contrary to Mr. Smith's representation to the Court at the most recent conference held before you on July 30 and the proposed new pleadings first handed to me in court, this most current proposed "supplementation" not only adds additional claims, but adds three brand new Defendants, namely Captain Kevin Kealy, Lieutenant George Marshall and Lieutenant Gary Robinson.<sup>1</sup> I further note that the copy of the proposed "Sixth Amended Complaint" that Mr. Smith first handed to me in Court on July 30 did not even list the three new defendants that plaintiff now seeks to add.

As set forth in page 2 of Mr. Smith's August 13 letter to the Court, the Plaintiff is seeking leave "to amend its pleading to add Captain Kevin Kealy as a named defendant", seeks "to supplement the pleading to add Lieutenant Gary Robinson as a named defendant" and finally "to amend and supplement its pleading to add lieutenant George Marshall as a named defendant." (Underlining in the original letter.)

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<sup>1</sup> It is noted for the Court that two of the three proposed new defendants, Capt. Kealy and Lt. Marshall, both retired earlier this year.


No explanation is given by Mr. Smith in his letter as to the difference among the newly proposed defendants as to what is meant by (1) amending as to Captain Kealy, (2) supplementing as to Lt. Robinson and (3) amending and supplementing as to Lt. Marshall so as to add them as new parties. Mr. Smith goes beyond simply amending under FRCP 15(a). He is now adding three new parties which brings into play FRCP 21.

While I fully understand that leave to amend is generally governed under a liberal standard, I remind the Court that the new proposed pleading is captioned "Supplemental Sixth Amended Complaint". Accordingly, I would ask that Plaintiff's request be denied.

In the event that the Court in its discretion grants plaintiff leave to amend and to add, *inter alia*, new parties, I would respectfully request that the Defendants be allowed to conduct further discovery on the additional items set forth in the "Supplemental Sixth Amended Complaint", including a further deposition of the plaintiff and other potential witnesses, and some limited document production.

If the Court requires anything further, please advise and I will be happy to provide such.

Very truly yours,

  
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BJP/hs

cc:

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